

17

THE HIGH COURT OF DELHI AT NEW DELHI

TEST. CASE. No. 2 of 2009

Decided on : 26.05.2011

+Sh. H.C. Shastri

.....Petitioner

Through: Mr. Anil Sapra, Sr. Adv. with
Mr. Rajesh Baweja and Ms. Urvi, Advs.

Versus

State & Others

....Respondents

Through: Mr. Manoj Sharma, Adv. with
Mr. Sumit Bhardwaj, Adv. for
Respondents No.2 and 3
Mr. K.L. Chaudhary, Adv. for
Respondent Nos.4 to 8

CORAM:-

HON'BLE MR JUSTICE MANMOHAN SINGH

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

MANMOHAN SINGH, J. (Oral)

1. The present petition under section 278 of the Indian Succession Act, 1925 has been filed by the petitioner seeking grant of letter of administration of the will dated 22.06.2007 in respect of the estate of his son Late Sh. Inder Mohan Sharma.

Test Case No.2/2009

Page 1 of 8

19

2. The deceased, Sh. Inder Mohan Sharma expired on 01.07.2007. The original death certificate Ex. PW1/B of the deceased is on record. At the time of his death, the deceased was a resident of H-45, Lane W-10, Sainik Farms, New Delhi-110062. The deceased was survived by his father who is the petitioner in this case and his wife and a minor daughter who are respondents No.2 and 3 respectively. Besides the abovementioned class 1 heirs, the deceased, had a brother who is respondent No.4 and his four sisters who are respondent Nos. 4 to 8 in this petition.

3. The deceased has bequeathed his estate moveable as well as immoveable, in the following manner:-

IMMOVABLE PROPERTY –

- (i) 50% share in the residential property bearing No. H-45 A, Lane W-10, Sainik Farms, New Delhi I favour of the petitioner.
- (ii) 5 acres of farm house at Bakergarh, Nazafgarh vide Khasra No. 23/15 & 23/16 in favour of the petitioner.
- (iii) A shop at Tarapur in Maharashtra, in favour of the petitioner.

- 77
- (iv) A flat in Prakash Apartment, 4405/5, Ansari Road, New Delhi in favour of respondent No.2.
 - (v) 2.5 acres of Farm Land situated at Bakergarh, Nazafgarh, in favour of respondent No.2.
 - (vi) Two residential Plots in Greater Noida Bering No. K-138 and I-273 in Sector Delta IInd, in favour of respondent No.2.

MOVABLE PROPERTIES

- (i) 50% shares in Star IT Park Pvt. Ltd. Geniousbuddy Infotech Pvt. Ltd. Floracent Export Pvt. Ltd. Quick Apparels Pvt. Ltd. Polychrome IT Park Pvt. Ltd. in favour of the petitioner.
- (ii) 5000 shares in IMS Construction Pvt. Ltd. 50% shares in Star IT Park Pvt. Ltd. Geniousbuddy Infotech Pvt. Ltd. Floracent Export Pvt. Ltd. Quick Apparels Pvt. Ltd. Polychrome IT Park Pvt. Ltd. in favour of the petitioner.
- (iii) 50% of the few shares in Advant IT Park Pvt. Ltd, 50% shares in Star IT Park Pvt. Ltd. Geniousbuddy Infotech Pvt. Ltd. Floracent Export Pvt. Ltd. Quick Apparels Pvt.

Ltd. Polychrome IT Park Pvt. Ltd. in favour of the petitioner and

(iv) 50% of the few shares in Advant IT Park Pvt. Ltd, 50% shares in Star IT Park Pvt. Ltd. Geniousbuddy Infotech Pvt. Ltd. Floracent Export Pvt. Ltd. Quick Apparels Pvt. Ltd. Polychrome IT Park Pvt. Ltd. in favour of respondent No.3.

(v) 50% shares in HSV Garments Pvt. Ltd. in favour of respondent No.3.

(vi) All the bank accounts , lockers, post office savings, shares in listed companies any other bonds, jewellery etc. in favour of respondent No.2.

4. Further, as per the will of Sh. Inder Mohan Sharma any assets moveable or immoveable, which have been omitted to be mentioned in the will or which he may have acquired after the execution of the will shall be taken by respondent No.2.

5. The petitioner has made this application for grant of letter of administration in order to administer the following estate/properties left by the deceased :

- (i) Easter Portion on the Ground Floor of property No. Municipal No. 4405, Part No. II, 5 Daryaganj, New Delhi-110002, Khasra No. 57, measuring about 373.5 sq. yards inherited by the deceased vide registered will dated 01.12.1987 of his grandmother Smt. Janaki Devi.
- (ii) Shop bearing No. 07 on the Ground Floor at "Oswal Empire" Building L/3 Type admeasuring Built-up area is 116 Sq. ft. at Village Saravali Tal: Palghar, Dist. Thane, Maharashtra
- (iii) Agriculture land measuring 4 Bighas and 5 Biswas bearing Khasra Nos. 23/15 min. East Side (1-8) and 16 min. East side (2-7), situated in village Bakargarh, Delhi as per revenue records.
- (iv) Agriculture land measuring 6 Bighas and 3 Biswas bearing Khasra Nos. 15/21 (4-16) and 15/20 min. (1-0) and 15/22/1 (0-7), situated in village Bakargarh, Delhi as per revenue records.
- (v) Agriculture land measuring 6 Bighas and 3 Biswas bearing Khasra Nos. 15/20 min. (3-16) and 15/11/2 (2-7), situated in village Bakargarh, Delhi as per revenue records.
- (vi) Agriculture land measuring 4 Bighas and 12 Biswas bearing

22

Khasra Nos. 29/9/1 (4-12, situated in village Bakrgarh, Delhi as per revenue records.

(vii) Agriculture land measuring 4 Bighas and 16 Biswas bearing Khasra Nos. 24/11, situated in village Bakrgarh, Delhi as per revenue records.

(viii) Agriculture land measuring 4 Bighas and 16 Biswas bearing Khasra Nos. 24/20, situated in village Bakrgarh, Delhi as per revenue records.

(ix) Agriculture land measuring 4 Bighas and 3 Biswas bearing Khasra Nos. 24/12/1 (2-12) and 21/1 (1-11), situated in village Bakrgarh, Delhi as per revenue records.

(x) Locker No. H-47 with Standard Chartered Bank, South Extension, Part II, New Delhi.

(xi) Savings in Public Provident Fund Account No. A-19567 with Goal Dakkhana, Barakhamba Road, New Delhi, balance as on 13.07.2008 is Rs. 5,27,982/- (Rupees Five lac, twenty thousand nine hundred eighty two only).

6. The petitioner is seeking the Letters of Administration in respect of the above estate/property of the deceased with the consent

of respondent No. 2 and her infant daughter namely baby Ishanvi, respondent No.3 whose natural guardian is respondent No.2, as well as respondent Nos. 4 to 8 who have given their no objection by way of affidavits in which they have stated that they have no objection to grant the of Letters of Administration in respect of estate of the deceased to the petitioner. Copies of all the above mentioned no-objection certificates are placed on record.

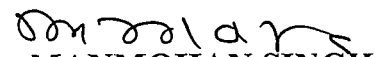
7. Citation of these proceedings have been effected in "The Hindustan Times" dated 19.03.2009. Valuation reports in respect of property No. 4405/5, Prakash Apartment, Darya Ganj, New Delhi and 5 acres of farm house at Bakergarh, Nazafgarh and 2.5 acres of Farm Land situated at Bakergarh, Nazafgarh, have also been received.

8. The will dated 22.06.2007, marked as Ex.PW1/C, has been signed by the deceased and two attesting witnesses. Evidence by way of an affidavit has been filed by the petitioner, PW-1 and by Mr. Garvesh Sharma, PW-2, who is one of the two attesting witness of the will Ex.PW1/C, of the deceased. It has been stated by Mr. Garvesh Sharma, PW-2 in his affidavit that he was present and saw the deceased/testator affix his signatures on the will dated 22.06.2007 and

23

the said will was executed by the deceased/testator of his own free will and volition and without any coercion or undue influence from any quarter and while the deceased was in good mental health. The statements of the petitioner as well as of PW-2 Mr. Garvesh Sharma have also been recorded. The Will is duly proved. There is no opposition from any corner. The petition was filed in the prescribed manner alongwith an affidavit of witness i.e. Mr. Garvesh Sharma. There is no direct interest in controversy. The Will is duly proved. There is no legal impediment for allowing the present petition.

9. In view of the above, the petition is allowed and the Letters of Administration is granted to the petitioner in respect of the will dated 22.06.2007 of the deceased subject to the petitioner filing requisite court fee on the value of the immovable property as stated in the Will in accordance with law. Therefore, the letter of Administration be issued to the petitioner on filing a surety bond and necessary court fees. The petition stands disposed of.


MANMOHAN SINGH, J.

MAY 26, 2011
dp

Test Case No.2/2009

Page 8 of 8

- From I.A. 12766/11 (for valuation of the property and correct numbers of the lockers in the order dt. 26.05.11)
- 1 Petition is hereby disposed of